

Exhibit 4

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Chief Civil Calendar

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SUPERIOR COURT CLERK

E-FILED

CASE NUMBER: 13-2-41165-2 SEA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KYKO GLOBAL INC., a Canadian corporation
and KYKO GLOBAL GMBH a Bahamian
corporation,

Judgment Creditors,

v.

PRITHVI INFORMATION SOLUTIONS,
LTD., a Pennsylvania corporation, et al.,

Judgment Debtors.

Case No. 13-2-41165-2 SEA

REPLY IN SUPPORT OF KYKO'S
MOTION FOR DETERMINATION OF
FIFTH AMENDMENT OBJECTIONS;
APPOINTMENT OF REFEREE;
COMPEL PRODUCTION OF
DOCUMENTS

1. Defendant's Fifth Amendment Objections are Intended to Hide Assets

Judgment Debtor Madhavi Vuppalapati has invoked the Fifth Amendment

privilege not to avoid criminal prosecution but to conceal assets. She cannot point to any inquiry no less actual investigation by any federal, state or local law enforcement agency, although these allegations against her have existed for almost a year. It is true that Ms. Vuppalapati does face significant civil responsibility for her actions, as outlined in various legal proceedings. However, civil liability does not amount to reasonable fear of criminal prosecution without more. That "more" is completely missing when the questions relate to the identity of assets belonging to the judgment debtors and where they are located. Vuppalapati simply does not establish a reasonable danger of criminal prosecution related to these answers. She invoked the Fifth

REPLY IN SUPPORT OF KYKO'S MOTION FOR DETERMINATION OF
FIFTH AMENDMENT OBJECTIONS - 1

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1 Amendment in response to the following simple questions that relate to her assets not threat of
2 criminal activities:

3 1. Did she review the prior transcript (February 13 exam) and make any changes
4 to any prior answers that she gave¹;

5 2. Questions about the company documents she produced at the May 16
6 examination that relate to ownership of stock²;

7 3. Any questions about her affidavit (Ex. 4) showing her ownership of various
8 companies, although she answered questions about it in her first exam after being ordered by this
9 court to do so³;

10 4. Her understanding of the factoring agreement with Kyko Global Inc. ("Kyko"),
11 although she answered this question at the first exam;⁴

12 5. She refused to testify about Prithvi Catalytic, not a fake company, even though
13 she previously answered interrogatories on that same topic and produced documents related to
14 the transaction.⁵

15 6. Divestment of her shares in a company called Agadia Systems Inc. ("Agadia")⁶

16 Ms. Vuppalapati fails to show how answering these specific questions relate to
17 any concerns expressed in her criminal attorney's declaration or other declarations submitted that
18 she committed a crimes sufficient to trigger prosecution. As a result, she has stonewalled
19 Kyko's efforts to collect on a judgment that is properly due. This wholesale refusal to answer
20 questions on specific topics or about the identity of assets in a company or the documents she
21 produced, does not meet the "reasonable cause to apprehend danger from a direct answer" that
22 might otherwise reveal assets that can satisfy a judgment.⁷ Having failed to establish the

23 ¹ Declaration of Yand, Ex. 3 at 6.

24 ² Id. Ex. 1, at p.112.

25 ³ Id at Decl. of Yand, Ex. 3 at 6.

26 ⁴ Id at 7.

⁵ Id. at Ex. 1, pp. 108, 115.

⁶ Id at Ex. 3, p. 111.

⁷ The assertion of the privilege against self-incrimination "must be confined to instances where the witness has reasonable cause to apprehend danger from a direct answer." Hoffman v. United States, 341 U.S. 479, 486, 71 S. Ct. 814, 95 L. Ed. 1118 (1951); "Without this requirement, any judgment debtor could assert his Fifth Amendment privilege, and judgment creditors would be powerless to enforce their judgments." Compton v. Societe Eurosuise, S.A., 494 F. Supp. 836, 838 (S.D. Fla.1980). Furthermore, defendant's statements that she answered many questions

1 necessary factual predicate, Vuppalapati's objections should be overruled and she should answer
2 questions about the identity and location of her assets and those of the various judgment debtors.

3 2. Waiver of Fifth Amendment Applies to Previous Answers

4 As illustrated above, Vuppalapati was asked almost identical questions from the
5 first exam but she refused to answer in the second, regardless of the court's prior ruling that
6 answers were due on companies not asserted to be fake. As acknowledged by defendant in her
7 response, waiver occurs when a claim of privilege is not timely invoked. See Response of
8 Defendant at 9. In her first exam, Vuppalapati answered questions about her affidavit, her
9 ownership in Prithvi Catalytic, the factoring agreement and divestiture in Agadia.⁸ These
10 responses constitute a waiver as to those topics testified to by Vuppalapati. Since her answers
11 were incomplete, the questioning returned to these topics at her continued examination on
12 May 16 but she now refuses to answer. These questions relate to Vuppalapati's knowledge of
13 assets that might be used to satisfy this judgment. If she fears she did something illegal, she does
14 not articulate the factual basis for it other than the factual allegations that support the original
15 lawsuit. Presumably, she would not have confessed to a judgment in federal court in the original
16 lawsuit if she was concerned about her criminal liability.

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21 during her May16 exam is partially true since many of the cited transcript pages related to questions about
22 Vuppalapati's effort to locate and produce documents ordered by the court. This is what generated Exhibit 4 to the
23 Decl. of Yand. As acknowledged by defendant, contents of documents do not implicate the Fifth Amendment.
24 Response Brief at 12. Furthermore, corporations possess no right against self-incrimination. Braswell v. United
25 States, 487 U.S. 99, 104–10, 108 S.Ct. 2284, 101 L.Ed.2d 98 (1988) (Custodial act of production is not personal act
26 subject to Fifth Amendment). Vuppalapati refers to questions asked in the 2004 exam in the Prithvi Catalytic
bankruptcy proceeding, but her response fails to inform the court she was ordered by Judge Taddonio to answer
questions regarding the identity and contact information of shareholders over her Fifth Amendment objections.

⁸ The court's prior ruling ordering answers to these questions, overruling defendant's Fifth Amendment objections,
was never appealed by defendants. This support waiver as to any further objections by defendants on these
questions.

1 3. Appointment of Referee is Necessary to Conduct an Adequate
2 Examination

3 The revolving door to this court on the many questions raised during these many
4 supplemental proceedings is sufficient to demonstrate the need to have a referee appointed to
5 address the objections and scheduling issues raised in this case.⁹ The court is empowered to use
6 a referee to make the process work rather than allowing a flood of objections to deny the proper
7 functioning of the supplemental examinations, as has occurred here. The referee can direct
8 where examinations will take place and for how long, rule on objections and address the
9 production of records and only bring rulings to this court for review after the facts and issues
10 have been fully considered and ruled upon by the referee. Although this may appear to be more
11 expensive at the outset, it will serve to reduce the court time and stream of motions that have
12 been flooding into the court for attention. Judgment debtors have failed to articulate any reason
13 not to have a referee address the reality of what this case has produced in terms of repeated
14 objections and various motions that show no sign of ebbing given the size of the judgment still
15 remaining unsatisfied.

16 4. Vuppalapati Must Answer Questions about Legal Fees

17 Ms. Vuppalapati has not responded to Kyko motion to compel her answers to
18 questions about the source for payment of her impressive phalanx of attorneys in this and other
19 proceedings. Therefore, the court should order answers to these questions and production of any
20 financial records related thereto.

21 5. Motion to Compel Documents Should be Granted

22 Defendant Vuppalapati cannot deny that she has failed to comply with this court's
23 orders to produce documents, as reflected in Exhibit 4 to Decl. of Yand filed in support. She

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25 ⁹ Defendant cites Washington Practice Section 40:12 which actually supports the court's authority: "Appoint
26 referee. The court may appoint a referee to take testimony and may compel the attendance of witnesses before the
 referee. The referee will take the testimony and continue the hearing to another date, and report the testimony taken
 to the court for action." This creates the record and ruling of the referee that still allow the court the final say.

1 admitted in her exam of May 16 that she has or can get access to numerous records but has not
2 done so, even though the proceedings were continued specifically for this purpose. Id. at Ex. 4.
3 She states in response to this motion that Kyko failed to advise her of what documents were still
4 missing. However, at the time of the May 9 exam, Ms. Vuppalapati advised that she still had
5 documents that she was waiting to receive but these were never produced. In her email of
6 May 14, counsel for Ms. Vuppalapati states she reviewed the two orders requiring documents
7 and had produced everything except some documents from India. However, in reply to this
8 email on May 14, counsel for Kyko stated that the information about the shareholders provided
9 was not responsive since it failed to identify the address for the shareholders as requested. See
10 **Exhibit 1** attached.¹⁰ Kyko is more concerned about getting the documents rather than seeking
11 sanctions but something must be done to stop the endless excuses and noncompliance with the
12 court's orders. The proposed order specifically addresses this avoidance of sanctions if the
13 court's orders are obeyed.

14 6. Conclusion

15 For the many reasons identified in this motion, the court should appoint a referee
16 to address the myriad of objections and compliance issues that this case has fostered. The
17 referee can address the Fifth Amendment objections and otherwise manage the scheduling of
18 future exams and the production of records. From this record made by the referee, the court can
19 make whatever additional ruling are necessary to ensure that the equitable remedies in the
20 supplemental proceedings are available to Kyko to properly collect on its judgment.
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25 ¹⁰ Plaintiff is avoiding the need for yet another declaration by attaching the email directly and representing that it is
26 true and correct copy of the original. This email response to counsel for Vuppalapati was apparently overlooked,
likely due to the large number of exchanges between the parties on numerous pending motions and exams.

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2 DATED this 29th day of May, 2014.
3

4 s/ James T. Yand

5 John R. Knapp, Jr., WSB No. 29343

6 James T. Yand, WSB No. 18730

7 MILLER NASH LLP

8 4400 Two Union Square

9 601 Union Street

10 Seattle, WA 98101

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15 Attorneys for Judgment Creditors

16 Kyko Global, Inc. and Kyko Global GMBH
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1 I hereby certify that on the date set forth below I served the foregoing REPLY IN
2 SUPPORT OF KYKO'S MOTION FOR DETERMINATION OF FIFTH AMENDMENT
3 OBJECTIONS; APPOINTMENT OF REFEREE; COMPEL PRODUCTION OF DOCUMENTS
4 on:

5 Mark D. Kimball
6 Mary K. Thurston
7 MDK Law Associates
8 Law Offices of Mark Douglas Kimball, P.S.
9 777 108th Avenue NE, Suite 2170
10 Bellevue, WA 98004
11 Phone: (425) 455-9610
12 Fax: (425) 455-1170
13 E-mail: mark@mdklaw.com
14 E-mail: mary@mdklaw.com

<input type="checkbox"/>	Via U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Via Hand Delivery
<input type="checkbox"/>	Via Federal Express
<input type="checkbox"/>	Via Facsimile
<input checked="" type="checkbox"/>	Via Electronic Mail

11 DATED this 29th day of May, 2014.

13 s/ James T. Yand
14 James T. Yand

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Yand, James

From: Yand, James
Sent: Thursday, May 15, 2014 10:23 AM
To: 'Mary Thurston'
Cc: "Mark Kimball"; Fadaie, Gill
Subject: RE: Requested Information

Mary-

The information below on its face appears to be an attorney's office in India and not the full address and contact details (phone numbers, email addresses) of these two shareholders of PCI. How is this responsive?

Jim

From: Mary Thurston [<mailto:mary@mdklaw.com>]
Sent: Thursday, May 15, 2014 9:30 AM
To: Yand, James
Cc: "Mark Kimball"
Subject: Requested Information

Dear Jim:

Please find below the contact information of the two shareholders of PCI as requested.

Additionally, I have gone through both the orders and the debtor's exam with Madhavi. The only documents that she has access and control over that she has not produced is documentation evidencing the transaction for Prithvi Catalytic, Inc. She has ordered that from her bank in India and it will be produced once it arrives. If you believe any other particular documents have not been produced or there are any other discrepancies, please feel free to contact me and let me know.

Sujatha Reddy
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Raja Kumari N
C/o P Rajeshwar Rao, Advocate
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Very Truly,
Mary Thurston



Mary K. Thurston, J.D.

EXHIBIT 1